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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

FRIGID RENTALS, INC.,,

Plaintiff,

vs.

EPIC WORLDWIDE LLC,,

Defendant.

Case No. 2:21-CV-01176-JCM-VCF

**STIPULATION AND ORDER TO
EXTEND DISCOVERY PLAN AND
SCHEDULING ORDER**

(Second Request)

Pursuant to LR IA 6-1, LR 7-1 and LR 26-3, Plaintiff FRIGID RENTALS, INC. (“Frigid” or “Plaintiff”) and Defendant EPIC WORLDWIDE LLC (“Epic” or “Defendant”) by and through their respective undersigned counsel, stipulate to extend the dates set forth in the parties’ operative Scheduling Order (ECF No. 14) by ninety (90) days. This stipulation is the parties’ second requested extension of dates, although the first request was very minor.¹ In support of this second stipulation and request, the parties state as follows:

¹ The parties previously submitted a Stipulation for Extension of Time (First Request) (ECF No. 28) on November 11, 2021, which was limited to extending the date for amending pleadings and adding parties and which was filed on short notice due to an unexpected illness experienced by Plaintiff’s lead counsel. The Court subsequently granted this stipulation in its Order (ECF No. 29) dated November 12, 2021. This second requested extension requests an extension as to the balance of the deadlines in the Scheduling Order (ECF No. 14), while leaving the current deadline for amending pleadings and adding parties in place.

1 Plaintiff initiated this litigation by filing its Complaint (ECF No. 3) on June 21, 2021 against
2 Defendant. Defendant filed its Answer (ECF No. 11) on August 13, 2021.

3 The parties held a FRCP 26(f) conference between their respective counsel on September 3,
4 2021 and, subsequently, the parties submitted a Joint Discovery Plan (ECF No. 13) pursuant to LR
5 26-1(b). On September 14, 2021, the Court issued the operative Scheduling Order (ECF No. 14),
6 adopting the stipulated Joint Discovery Plan previously submitted by the parties.

7 On September 24, 2021, Plaintiff filed the operative First Amended Complaint (ECF No.
8 17). Thereafter, Defendant filed its Answer to the First Amended Complaint (ECF No. 24) on
9 October 7, 2021.

10 On November 5, 2021, a Motion to Substitute Attorney (ECF No. 26) by Defendant, which
11 sought to substitute Lewis Brisbois Bisgaard & Smith LLP (“LBBS”) as counsel for Defendant in
12 place of Hutchison & Steffen, PLLC. The Court granted the Motion to Substitute Attorney through
13 its Order (ECF No. 27) dated November 8, 2021.

14 On November 11, 2021, the parties submitted a Stipulation for Extension of Time (First
15 Request), which was limited to extending the date for amending pleadings and adding parties
16 referenced in the preceding footnote. The Court subsequently granted this stipulation in its Order
17 (ECF No. 29) dated November 12, 2021.

18 **A. DISCOVERY COMPLETED**

19 On September 3, 2021, counsel for Plaintiff and Defendant met and participated in their
20 conference pursuant to FRCP 26(f). Subsequently, both parties served their respective initial
21 disclosures on September 17, 2021 pursuant to FRCP 26(a)(1).

22 On September 17, 2021, Plaintiff served its First Set of Requests for Production of
23 Documents and Tangible Things on Defendant pursuant to FRCP 34.

24 On September 17, 2021, Plaintiff served its First Set of Interrogatories on Defendant
25 pursuant to FRCP 33.

26 On September 17, 2021, Plaintiff served its First Set of Requests for Admission on
27 Defendant pursuant to FRCP 36.

28 On October 8, 2021, Defendant served its First Supplemental Disclosure Pursuant to FRCP

1 26(a)(1).

2 On October 11, 2021, Defendant served its Responses to Plaintiff's First Set of Requests for
3 Admission.

4 On October 15, 2021, Defendant served its Responses to Plaintiff's First Set of
5 Interrogatories.

6 On November 18, 2021, Defendant served its First Set of Requests for Production on
7 Plaintiff pursuant to FRCP 34.

8 On November 18, 2021, Defendant served its First Set of Requests for Admission on
9 Plaintiff pursuant to FRCP 36.

10 On November 18, 2021, Defendant served its First Set of Interrogatories on Plaintiff
11 pursuant to FRCP 33.

12 **B. DISCOVERY THAT REMAINS TO BE COMPLETED**

13 This lawsuit is a complex commercial dispute involving competing allegations surrounding
14 the supply of trailer decals for a large fleet of trucks operated by a third-party discount store chain
15 based in Canada. The fact that much of the discovery required is located abroad (in Canada)
16 complicates the discovery process. Discovery was initiated in September and the parties are still in
17 the early stages of completing discovery.

18 The parties need to respond to the remaining written discovery that has already been served
19 as well as disclosing the remaining documents that have been gathered and need to be produced.
20 Since the underlying business transaction and related third parties are based in Canada, the parties
21 anticipate that they will need to obtain significant amounts of discovery from several third-parties
22 located in Canada.

23 The parties will need to conduct party depositions of one another's respective
24 representatives, along with at least three or more depositions of representatives of the various third-
25 parties based in Canada. The parties also anticipate exchanging expert discovery and taking the
26 depositions of the parties' respective expert witnesses.

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1 **C. REASONS WHY DISCOVERY HAS NOT BEEN COMPLETED**

2 Since the time that the Court issued the operative Scheduling Order (ECF No. 14), the parties
3 have propounded and responded to written discovery, worked successfully to resolve one discovery
4 dispute and are currently in the process of meeting and conferring concerning a second one. While
5 the parties have organized and identified underlying relevant documents, the parties anticipate a
6 significant volume of at least several thousand pages that will still need to be reviewed and disclosed.
7 The parties are in the process of reviewing and preparing these remaining documents for disclosure,
8 which include large numbers of electronic records. Organizing these documents in a manner which
9 complies with electronic discovery protocols and which facilitates their efficient use as the case
10 proceeds (*e.g.*, a useable organization that lends itself to responding to written discovery) has been
11 time-consuming.

12 The parties further anticipate that additional time will be needed for discovery in this case
13 based on the fact that many of the underlying third-party records and witnesses are located in
14 Canada. While the parties have been diligent in attempting to obtain available information through
15 available channels, they anticipate that the bulk of the discoverable documents and witness
16 testimony based in Canada will have to be obtained through formal Canadian discovery
17 mechanisms.

18 Plaintiff's counsel will also be engaged in a highly complex commercial trial in Dallas,
19 Texas during the week of December 13-17 which is very likely to take place despite the ongoing
20 pandemic, and anticipate spending considerable time over the ensuing several weeks preparing for
21 this trial. For this reason, Plaintiff's counsel has requested, and Defendant has agreed, to an
22 extension for Plaintiff to respond to Defendant's written discovery.

23 Finally, Defendant's recent change of counsel on November 5, 2021 has necessarily required
24 additional time as Defendant's new counsel, LBBS, has onboarded and reviewed records from
25 Defendants' prior counsel. While the parties have been diligent and cooperating with one another
26 as to a number of pending discovery items during this time period, they anticipate that additional
27 time will be needed in light of the transition of counsel for Defendant.

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In light of the above, the parties respectfully submit that the above factors provide good cause for the requested discovery plan modification detailed in the next section.

D. PROPOSED SCHEDULE

EVENT	CURRENT DEADLINE	PROPOSED NEW DATE
Amend Pleadings/Add Parties	November 24, 2021 ²	No change requested.
Initial Expert Disclosures ³	December 10, 2021	Thursday March 31, 2022
Rebuttal Expert Disclosures	January 10, 2022	Friday April 29, 2022
Any Motion to modify or extend the Discovery Plan and Scheduling Order is due under LR 26-3	January 19, 2022	Tuesday May 10, 2022
Close of Discovery	February 9, 2022	Tuesday May 31, 2022
Dispositive Motions	March 11, 2022	Thursday June 30, 2022
Pre-Trial Order	April 11, 2022	Friday July 29, 2022

If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order.

This second request for an extension of time is not sought for delay or any other improper purpose. Rather, the parties seek this extension solely to allow sufficient time to complete discovery and prepare their respective cases for trial. The parties stipulate and submit that the reasons set forth above constitute good cause for the extension.

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² This deadline was previously extended as a result of the parties' Stipulation for Extension of Time (First Request) (ECF No. 28), which the Court subsequently granted in its Order (ECF No. 29) dated November 12, 2021. No further extension is being sought as to this deadline.

³ The parties prior Joint Discovery Plan (ECF No. 13) inadvertently included a deadline for an Interim Status Report pursuant to the prior version of LR 26-3. Since the current operative version of LR 26-3 no longer requires interim status reports, the parties have removed this deadline from the proposed schedule.

1 Accordingly, the parties respectfully request that this Court extend the operative
2 discovery plan and scheduling order by three months and three weeks (111 days) as indicated in
3 the above table.

4 DATED this 18th day of November, 2021.

DATED this 18th day of November, 2021.

5 LEWIS BRISBOIS BISGAARD &
6 SMITH LLP

SBAITI & COMPANY PLLC

7 /s/ Adam J. Pernsteiner

/s/ Michal Zapendowski

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14 *Attorneys for FRIGID RENTALS, INC.*

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16 ORDER

17 IT IS SO ORDERED:

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19 UNITED STATES MAGISTRATE JUDGE

20 DATED: 11-23-2021
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